

REMARKS/ARGUMENTS

Reconsideration of the above-identified application in view of the present amendment is respectfully requested. By this amendment, claims 1, 4, 8, 10, 13, 19, 21, 22, 24, 25, 28, 31, 33, 35, and 36. Claims 1-42 are currently pending in the application. Claim 22 is amended to depend from claim 20 to provide sufficient antecedent basis for "the second vehicle occupant protection device" in order to overcome of the rejection of claim 22 under 35 U.S.C. 112. Claim 36 is amended to depend from claim 34 to provide sufficient antecedent basis for "the second vehicle occupant protection device" in order to overcome of the rejection of claim 36 under 35 U.S.C. 112. Claims 1, 10, 21, 24, 28, and 35 are amended to replace "or" with -- and-- in the phrase "at least one of a side impact event or a rollover event" for better form. Claim 8 is amended to include the subject matter of claim 4, which claim 8 depends.

Claim 1 stands rejected under 35 U.S.C. 102(e) as being anticipated by Kobayashi et al. This rejection is respectfully traversed. Anticipation requires a single prior art reference that discloses each element of the claim. W.L. Gore & Associates v. Garlock, Inc., 220 UPSQ 303, 313 (Fed. Cir. 1983) *cert. denied* 469 U.S. 851 (1984). For a reference to anticipate a claim, "[t]here must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention." Scripps Clinic & Research Foundation v. Genentech Inc., 18 USPQ2d 1001, 1010 (Fed. Cir. 1991).

Kobayashi et al. does not disclose or suggest the feature recited in claim 1 of a controller responsive to the crash event signal for immediately inflating the first

vehicle occupant protection device and, a predetermined time after inflation of the first vehicle occupant protection device, inflating the second vehicle occupant protection device. Kobayashi et al. merely discloses that in the case of a side collision, the control unit actuates the side air bag 5 for side collision and a buckle pretensioner 6 of lateral restraint apparatus. The controller 1 of Kobayashi et al. only actuates the longitudinal restraint apparatus 10 after performing operations to estimate the amount of movement of the occupant in the longitudinal and lateral direction and determining the need to actuate the longitudinal restraint apparatus 10 using that estimation (Col. 4, line 50 to Col. 5, line 2). Kobayashi et al. does not disclose or suggest that the controller 1 is responsive to a crash event signal for immediately inflating a first vehicle occupant protection device and, a predetermined time after inflation of the first vehicle occupant protection device, inflating a second vehicle occupant protection device. Therefore, claim 1 is allowable. Claims 2 and 9 depend from claim 1 and are therefore allowable as depending from an allowable claim and also for the specific features recited therein.

Claim 3, which depends on claim 1, should be allowed for the same reasons as claim 1 and also for the feature that the first vehicle occupant protection device is a rollover air bag. Kobayashi et al. fails to disclose or suggest a rollover air bag. A side air bag is not considered a rollover air bag. A rollover air bag protects an occupant from a rollover event of the vehicle. A side air bag may not necessarily protect the occupant from a rollover event of the vehicle. For example, the Beasley, Jr. reference cited by the examiner states that air bags that are designed for rollover

protection are different from conventional front and side airbags (See paragraph [0004], lines 6-9). Therefore, claim 3 is allowable.

Claim 4, which depends on claim 1, should be allowed for the same reasons as claim 1. Additionally, claim 4 is amended to further patentably define over Kobayashi et al. Claim 4 is amended to recite that the second vehicle occupant protection device is configured to remain in a mostly inflated condition in the second position for an extended period of time that is sufficient to maintain the occupant in the seat during the crash event. Kobayashi et al. does not disclose or suggest this feature. Therefore, claim 4 is allowable. Claims 6 and 7 depend from claim 4 and are therefore allowable as depending from an allowable claim and also for the specific features recited therein.

Claim 5 is allowable as depending from an allowable claim 4. In addition, claim 5 should be patentable over Kobayashi et al. in view of Beasley, Jr. for the following reasons. The M.P.E.P. sets forth the criteria for a rejection for obviousness under 35 U.S.C. §103 as follows:

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure.

See, M.P.E.P. § 706.02(j) *citing In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

There is no suggestion or motivation in Kobayashi et al. or Beasley, Jr. or in the knowledge of one of ordinary skill in the art to combine the reference teachings of Kobayashi et al. and Beasley, Jr. as proposed in the rejection of claim 5. The Office Action merely states that it would obvious to do "in order to better protect the occupant". However, this reason is speculative. One of ordinary skill in the art will recognize that there is no need to modify Kobayashi et al. with the teachings of Beasley, Jr. in the manner taught by Beasley, Jr.

It is respectfully suggested that the obviousness rejection to claim 5 using Kobayashi et al. and Beasley, Jr. only seems plausible using hindsight after having the benefit of the Applicants' disclosure. The use of the teachings of the present invention to find obviousness is impermissible.

The court must be ever alert not to read obviousness into an invention on the basis of applicant's own statements; that is, we must view the prior art without reading into that art applicant's teachings. The issue, then, is whether the teachings of the prior art would, in and of themselves and without the benefits of appellant's disclosure, make the invention as a whole obvious.

In Re Spunoble, 160 USPQ 237 at 243 (CCPA 1969) (emphasis in original).

Accordingly, the Examiner must consider only the teachings of the prior art references. Without the teachings of the present invention, one of ordinary skill in the art would not even consider combining the teachings of Kobayashi et al. and Beasley, Jr. to attempt to arrive at the presently claimed invention. For the reasons set forth above, the rejection of claim 5 under 35 U.S.C. 103(a) fails to establish a prima facie case for obviousness, because there is no suggestion or motivation in Kobayashi et al. or Beasley, Jr. or in the knowledge of one of ordinary skill in the art

to combine the reference teachings of Kobayashi et al. and Beasley, Jr. as proposed in the rejection of claim 5. Therefore, claim 5 is allowable for these additional reasons.

Claim 8 is allowable as depending from an allowable claim 1. In addition, claim 8 should be patentable over Kobayashi et al. in view of Beasley, Jr. for the following reasons. There is no suggestion or motivation in Kobayashi et al. or Beasley, Jr. or in the knowledge of one of ordinary skill in the art to combine the reference teachings of Kobayashi et al. and Beasley, Jr. as proposed in the rejection of claim 8. The Office Action does not cite a motivation or suggestion to modify Kobayashi et al. with the teachings of Beasley, Jr.

Therefore, the rejection of claim 8 under 35 U.S.C. 103(a) fails to establish a prima facie case for obviousness, because there is no suggestion or motivation in Kobayashi et al. or Beasley, Jr. or in the knowledge of one of ordinary skill in the art to combine the reference teachings of Kobayashi et al. and Beasley, Jr. as proposed in the rejection of claim 8. Thus, claim 8 is allowable for these additional reasons.

Claim 10 is amended to recite that the crash event signal is indicative of said one of a side impact event and a rollover event. Claim 10 as amended patentably defines over the cited references. Neither Kobayashi et al. nor Foo et al. taken either alone or in combination discloses or suggests a controller responsive to the crash event signal, which is indicative of said one of a side impact event and a rollover event, from the sensor for inflating both the first and second vehicle occupant protection devices. Kobayashi et al. merely discloses that in the case of a side collision, the control unit actuates the side air bag 5 for side collision and a

buckle pretensioner 6 of lateral restraint apparatus. The controller 1 of Kobayashi et al. only actuates the longitudinal restraint apparatus 10 after performing operations to estimate the amount of movement of the occupant in the longitudinal and lateral direction and determining the need to actuate the longitudinal restraint apparatus 10 using that estimation (Col. 4, line 50 to Col. 5, line 2). Kobayashi et al. does not disclose or suggest that the controller 1 is responsive to a crash event signal, which is indicative of said one of a side impact event and a rollover event, from the sensor for inflating both first and second vehicle occupant protection devices.

Foo et al. merely shows side air bags 16, 18 that deploy when metric values computed by a controller 60 from crash signals coming from first and second sideways crash accelerometers 42, 44 are above exceed certain thresholds (See Col. 5, line 51 to Col 6, line14). Foo et al. also shows front air bags 12, 14 that deploy when metric values computed by the controller 60 from crash signals coming from accelerometer 40 are above certain thresholds (See Col. 5, lines 25-50). Foo et al. fails to disclose or suggest that the controller 60 responsive to the crash event signal, which is indicative of said one of a side impact event and a rollover event, from the sensor for inflating both the first and second vehicle occupant protection devices. Therefore, claim 10 is allowable. Claims 11, 12, and 18 depend from claim 10 and are allowable as depending from an allowable claim and also for the specific features recited therein.

Claim 13 is allowable as depending from an allowable claim 10. Additionally, claim 13 is amended to further patentably define over Kobayashi et al. Claim 13 is amended to recite that the second vehicle occupant protection device is configured

to remain in a mostly inflated condition in the second position for an extended period of time that is sufficient to maintain the occupant in the seat during the crash event. Kobayashi et al. does not disclose or suggest this feature. Therefore, claim 13 is allowable. Claims 15 and 16 depend from claim 13 and are allowable as depending from an allowable claim and also for the specific features recited therein.

Claim 14 is allowable as depending from an allowable claim 13. In addition, claim 14 should be patentable over Kobayashi et al. in view of Beasley, Jr. for the following reasons. There is no suggestion or motivation in Kobayashi et al. or Beasley, Jr. or in the knowledge of one of ordinary skill in the art to combine the reference teachings of Kobayashi et al. and Beasley, Jr. as proposed in the rejection of claim 14. The Office Action merely states that it would be obvious to do "in order to better protect the occupant". However, this reason is speculative. One of ordinary skill in the art will recognize that there is no need to modify Kobayashi et al. with the teachings of Beasley, Jr. in the manner taught by Beasley, Jr.

It is respectfully suggested that the obviousness rejection to claim 14 using Kobayashi et al. and Beasley, Jr. only seems plausible using hindsight after having the benefit of the Applicants' disclosure, which is impermissible.

Accordingly, the Examiner must consider only the teachings of the prior art references. Without the teachings of the present invention, one of ordinary skill in the art would not even consider combining the teachings of Kobayashi et al. and Beasley, Jr. to attempt to arrive at the presently claimed invention. For the reasons set forth above, the rejection of claim 14 under 35 U.S.C. 103(a) fails to establish a prima facie case for obviousness, because there is no suggestion or motivation in

Kobayashi et al. or Beasley, Jr. or in the knowledge of one of ordinary skill in the art to combine the reference teachings of Kobayashi et al. and Beasley, Jr. as proposed in the rejection of claim 14. Therefore, claim 14 is allowable for these additional reasons.

Claim 17 is allowable as depending from an allowable claim 13. In addition, claim 17 should be patentable over Kobayashi et al. in view of Beasley, Jr. for the following reasons. There is no suggestion or motivation in Kobayashi et al. or Beasley, Jr. or in the knowledge of one of ordinary skill in the art to combine the reference teachings of Kobayashi et al. and Beasley, Jr. as proposed in the rejection of claim 17. The Office Action does not cite a motivation or suggestion to modify Kobayashi et al. with the teachings of Beasley, Jr.

Therefore, the rejection of claim 17 under 35 U.S.C. 103(a) fails to establish a prima facie case for obviousness, because there is no suggestion or motivation in Kobayashi et al. or Beasley, Jr. or in the knowledge of one of ordinary skill in the art to combine the reference teachings of Kobayashi et al. and Beasley, Jr. as proposed in the rejection of claim 17. Thus, claim 17 is allowable for these additional reasons.

Claim 19 stands rejected under 35 U.S.C. 102(b) as being anticipated by Beasley Jr. Claim 19 also stands rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi et al. in view of Beasley Jr. Claim 19 is amended to recite that the first vehicle occupant protection device is configured to remain in a mostly inflated condition in the first position for 300 milliseconds. Neither Kobayashi et al. nor Beasley Jr. taken alone or in combination discloses or suggests this feature. Therefore, claim 19 is allowable. Claims 20-23 depend from claim 19 and

are allowable as depending from an allowable claim and also for the specific features recited therein.

Claim 24 stands rejected under 35 U.S.C. 102(e) as being anticipated by Kobayashi et al. Claim 24 is amended to recite that the step of inflating, a predetermined time after inflating the first vehicle occupant protection device, a second vehicle occupant protection device into a second position located forward of the seat is in response to said crash event signal. Kobayashi et al. does not disclose or suggest this step. Kobayashi et al. merely discloses that in the case of a side collision, the control unit actuates the side air bag 5 for side collision and a buckle pretensioner 6 of lateral restraint apparatus. The controller 1 of Kobayashi et al. only actuates the longitudinal restraint apparatus 10 after performing operations to estimate the amount of movement of the occupant in the longitudinal and lateral direction and determining the need to actuate the longitudinal restraint apparatus 10 using that estimation (Col. 4, line 50 to Col. 5, line 2). Kobayashi et al. does not disclose or suggest a step of inflating, a predetermined time after inflating the first vehicle occupant protection device, a second vehicle occupant protection device into a second position located forward of the seat that is in response to a crash event signal. Therefore, claim 24 is allowable. Claim 27 depends from claim 24 and is therefore allowable as depending from an allowable claim and also for the specific features recited therein.

Claim 25, which depends on claim 24, should be allowed for the same reasons as claim 24. Additionally, claim 25 is amended to further patentably define over Kobayashi et al. Claim 25 is amended to recite that the step of sustaining the

second vehicle occupant protection device in a mostly inflated condition in the second position for an extended period of time is sufficient to maintain the occupant in the seat during the crash event. Kobayashi et al. does not disclose or suggest this feature. Therefore, claim 25 is allowable.

Claim 26 is allowable as depending from an allowable claim 25. In addition, claim 26 should be patentable over Kobayashi et al. in view of Beasley, Jr. for the following reasons. There is no suggestion or motivation in Kobayashi et al. or Beasley, Jr. or in the knowledge of one of ordinary skill in the art to combine the reference teachings of Kobayashi et al. and Beasley, Jr. as proposed in the rejection of claim 26. The Office Action merely states that it would obvious to do "in order to better protect the occupant". However, this reason is speculative. One of ordinary skill in the art will recognize that there is no need to modify Kobayashi et al. with the teachings of Beasley, Jr. in the manner taught by Beasley, Jr.

It is respectfully suggested that the obviousness rejection to claim 26 using Kobayashi et al. and Beasley, Jr. only seems plausible using hindsight after having the benefit of the Applicants' disclosure, which is impermissible.

Accordingly, the Examiner must consider only the teachings of the prior art references. Without the teachings of the present invention, one of ordinary skill in the art would not even consider combining the teachings of Kobayashi et al. and Beasley, Jr. to attempt to arrive at the presently claimed invention. For the reasons set forth above, the rejection of claim 26 under 35 U.S.C. 103(a) fails to establish a prima facie case for obviousness, because there is no suggestion or motivation in Kobayashi et al. or Beasley, Jr. or in the knowledge of one of ordinary skill in the art

to combine the reference teachings of Kobayashi et al. and Beasley, Jr. as proposed in the rejection of claim 26. Therefore, claim 26 is allowable for these additional reasons.

Claim 28 is amended to recite that the crash event signal is indicative of the one of a side impact event and a rollover event and the step of inflating a second vehicle occupant protection device into a second position located forward of the seat is in response to said crash event signal. Claim 28 as amended patentably defines over the cited references. Neither Kobayashi et al. nor Foo et al. taken either alone or in combination discloses or suggests the step of a inflating a second vehicle occupant protection device into a second position located forward of the seat is in response to said crash event signal, which is indicative of the one of a side impact event and a rollover event. Kobayashi merely discloses that in the case of a side collision, the control unit actuates the side air bag 5 for side collision and a buckle pretensioner 6 of lateral restraint apparatus. The controller 1 of Kobayashi only actuates the longitudinal restraint apparatus 10 after performing operations to estimate the amount of movement of the occupant in the longitudinal and lateral direction and determining the need to actuate the longitudinal restraint apparatus 10 using that estimation (Col. 4, line 50 to Col. 5, line 2). Kobayishi does not disclose or suggest inflating a second vehicle occupant protection device into a second position located forward of the seat in response to a crash event signal, which is indicative of one of a side impact event and a rollover event.

Foo et al. merely shows side air bags 16, 18 that deploy when metric values computed by a controller 60 from crash signals coming from first and second

sideways crash accelerometers 42, 44 are above exceed certain thresholds (See Col. 5, line 51 to Col 6, line14). Foo et al. also shows front air bags 12, 14 that deploy when metric values computed by the controller 60 from crash signals coming from accelerometer 40 are above certain thresholds (See Col. 5, lines 25-50). Foo et al. fails to disclose or suggest inflating a second vehicle occupant protection device into a second position located forward of the seat in response to a crash event signal, which is indicative of one of a side impact event and a rollover event.

Therefore, claim 28 is allowable. Claims 29 and 30 depend from claim 28 and are allowable as depending from an allowable claim and also for the specific features recited therein.

Claim 31 is allowable as depending from an allowable claim 28. Additionally, claim 31 is amended to further patentably define over Kobayashi. Claim 31 is amended to recite that the step of sustaining the second vehicle occupant protection device in a mostly inflated condition in the second position for an extended period of time is sufficient to maintain the occupant in the seat during the crash event. Kobayashi et al. does not disclose or suggest this feature. Therefore, claim 31 is allowable.

Claim 32 is allowable as depending from an allowable claim 31. In addition, claim 32 should be patentable over Kobayashi et al. in view of Beasley, Jr. for the following reasons. There is no suggestion or motivation in Kobayashi et al. or Beasley, Jr. or in the knowledge of one of ordinary skill in the art to combine the reference teachings of Kobayashi et al. and Beasley, Jr. as proposed in the rejection of claim 32. The Office Action merely states that it would obvious to do "in order to

better protect the occupant". However, this reason is speculative. One of ordinary skill in the art will recognize that there is no need to modify Kobayashi et al. with the teachings of Beasley, Jr. in the manner taught by Beasley, Jr.

It is respectfully suggested that the obviousness rejection to claim 32 using Kobayashi et al. and Beasley, Jr. only seems plausible using hindsight after having the benefit of the Applicants' disclosure, which is impermissible.


Accordingly, the Examiner must consider only the teachings of the prior art references. Without the teachings of the present invention, one of ordinary skill in the art would not even consider combining the teachings of Kobayashi et al. and Beasley, Jr. to attempt to arrive at the presently claimed invention. For the reasons set forth above, the rejection of claim 32 under 35 U.S.C. 103(a) fails to establish a prima facie case for obviousness, because there is no suggestion or motivation in Kobayashi et al. or Beasley, Jr. or in the knowledge of one of ordinary skill in the art to combine the reference teachings of Kobayashi et al. and Beasley, Jr. as proposed in the rejection of claim 32. Therefore, claim 32 is allowable for these additional reasons.

Claim 33 stands rejected under 35 U.S.C. 102(b) as being anticipated by Beasley Jr. Claim 33 also stands rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi et al. in view of Beasley Jr. Claim 33 is amended to recite that the step of sustaining the first vehicle occupant protection device in a mostly inflated condition in the first position is for 300 milliseconds. Neither Kobayashi et al. nor Beasley Jr. taken alone or in combination discloses or suggests this feature. Therefore, claim 33 is allowable. Claims 34-36 depend from claim 33

and are allowable as depending from an allowable claim and also for the specific features recited therein.

In view of the foregoing, it is respectfully requested that the amendment be entered and the application allowed. Please charge any deficiency or credit any overpayment in the fees for this amendment to our Deposit Account No. 20-0090.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Matthew M. Shaheen', written over a horizontal line.

Matthew M. Shaheen
Reg. No. 45,367

TAROLLI, SUNDHEIM, COVELL,
& TUMMINO L.L.P.
1300 East Ninth Street, Suite 1700
Cleveland, Ohio 44114
Phone: (216) 621-2234
Fax: (216) 621-4072
Customer No.: 26,294